

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 182

AN ACT

To repeal sections 34.209, 34.212, and 34.216, RSMo,  
and to enact in lieu thereof three new sections  
relating to public contracts.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 34.209, 34.212, and 34.216, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 34.209, 34.212, and 34.218, to read as follows:

4           34.209. The state, any agency of the state, any political  
5 subdivision of the state, or any instrumentality thereof, when  
6 engaged in procuring or letting contracts for construction [of a  
7 project that is funded by greater than fifty percent of state  
8 funds], repair, remodeling, or demolition of a facility shall  
9 ensure that bid specification, project agreements, and other  
10 controlling documents entered into, required, or subject to  
11 approval by the state, agency, political subdivision, or  
12 instrumentality do not:

13           (1) Require or prohibit bidders, offerors, contractors, or  
14 subcontractors to enter into or adhere to agreements with one or  
15 more labor organizations on the same or related projects; [or]

16           (2) Discriminate against bidders, offerors, contractors, or  
17 subcontractors for entering or refusing to enter or to remain  
18 signatory or otherwise adhere to agreements with one or more  
19 labor organizations on the same or related construction projects;

1 or

2 (3) Encourage or give preferential treatment to bidders,  
3 offerors, contractors, or subcontractors for entering or refusing  
4 to enter or to remain signatory or otherwise adhere to agreements  
5 with one or more labor organizations on the same or related  
6 construction projects.

7 34.212. 1. The state, any agency of the state, any  
8 political subdivision of the state, or any instrumentality  
9 thereof shall not issue or award grants, tax abatements, or tax  
10 credits or enter into cooperative agreements for construction  
11 projects or for the improvement, maintenance, or renovation of  
12 real property or fixtures, a condition of which requires that bid  
13 specifications, project agreements, or other controlling  
14 documents pertaining to the grant, tax abatement, tax credit, or  
15 cooperative agreement contain any of the elements specified in  
16 section 34.209.

17 2. The state, any agency of the state, any political  
18 subdivision, or any instrumentality thereof shall exercise such  
19 authority as may be required to preclude a grant, tax abatement,  
20 or tax credit recipient or party to a cooperative agreement from  
21 imposing any of the elements specified in section 34.209 in  
22 connection with any grant or cooperative agreement awarded or  
23 entered into. Nothing in sections 34.203 to [34.216] 34.217  
24 shall prohibit contractors or subcontractors from voluntarily  
25 entering into agreements described in section 34.209.

26 34.218. 1. Any entity which violates the provisions of  
27 sections 34.203 to 34.217 shall be liable to the person affected  
28 for such equitable relief as may be appropriate, including

1 reasonable attorney's fees.

2 2. Any entity which violates the provisions of sections  
3 34.203 to 34.217 shall not be eligible for any state funding or  
4 tax credits issued by the state for two years.

5 3. The prosecuting attorney or circuit attorney with  
6 jurisdiction over the location where a violation or threatened  
7 violation of sections 34.203 to 34.217 occurs, or the attorney  
8 general of this state, shall investigate complaints of violation  
9 or threatened violation of such sections, and use all means at  
10 their command to ensure the effective enforcement of this  
11 section.

12 [34.216. 1. For purposes of this section, the  
13 term "project labor agreement" shall be defined as a  
14 multiemployer, multiunion pre-hire agreement designed  
15 to systemize labor relations at a construction site  
16 that is required by the state or a political  
17 subdivision of the state as a condition of a bid  
18 specification for a construction project, thereby  
19 insuring that all contractors and subcontractors on a  
20 project comply with the terms of a union-only  
21 agreement.

22 2. The state or a political subdivision of the  
23 state may enter into a union-only project labor  
24 agreement for the procurement of construction services,  
25 except as provided in section 34.209, on a  
26 project-by-project basis only if the project is funded  
27 fifty percent or less with state funds and only on the  
28 condition that:

29 (1) The state or political subdivision must  
30 analyze the impact of a union-only project labor  
31 agreement and consider:

32 (a) Whether the union-only project labor  
33 agreement advances the interests of the public entity  
34 and its citizens;

35 (b) Whether the union-only project labor  
36 agreement is appropriate considering the complexity,  
37 size, cost impact, and need for efficiency on the  
38 project;

39 (c) Whether the union-only project labor  
40 agreement impacts the availability of a qualified work  
41 force; and

42 (d) Whether the scope of the union-only project

1 labor agreement has a business justification for the  
2 project as bid;

3 (2) The state or political subdivision shall  
4 publish the findings of subdivision (1) of this  
5 subsection in a document titled "Intent to Enter Into a  
6 Union Project Labor Agreement". The document shall  
7 establish a rational basis upon which the state or  
8 political subdivision bases its intent to require a  
9 union-only project labor agreement for the project;

10 (3) No fewer than fourteen days but not more than  
11 thirty days following publication of the notice of a  
12 public hearing, the state or political subdivision  
13 shall conduct a public hearing on whether to proceed  
14 with its intent to require a union-only project labor  
15 agreement;

16 (4) Within thirty days of the public hearing set  
17 forth in subdivision (3) of this subsection, the state  
18 or political subdivision shall publish its  
19 determination on whether or not to require a union-only  
20 project labor agreement.

21 3. (1) Any interested party may, within thirty  
22 days of the determination of the state or political  
23 subdivision as set forth in subdivision (4) of  
24 subsection 2 of this section, appeal to the labor and  
25 industrial relations commission for a determination as  
26 to whether the state or political subdivision complied  
27 with subsection 2 of this section for a union-only  
28 project labor agreement as defined in subsection 1 of  
29 this section.

30 (2) The labor and industrial relations commission  
31 shall consider the appeal in subdivision (1) of this  
32 section under a rational basis standard of review.

33 (3) The labor and industrial relations commission  
34 shall hold a hearing on the appeal within sixty days of  
35 the filing of the appeal. The commission shall issue  
36 its decision within ninety days of the filing date of  
37 the appeal.

38 (4) Any aggrieved party from the labor and  
39 industrial relations commission decision set forth in  
40 subdivision (3) of this subsection may file an appeal  
41 with the circuit court of Cole County within thirty  
42 days of the commission's decision.]